

IN THE SUPREME COURT OF TENNESSEE
SPECIAL WORKERS' COMPENSATION APPEALS PANEL
AT NASHVILLE

January 28, 2008 Session

**STEPHEN Q. MANCHESTER v. INSURANCE COMPANY OF THE
STATE OF PENNSYLVANIA, ET AL.**

**Direct Appeal from the General Sessions Court for Warren County
No. 8367-GSWC Larry Ross, Judge**

**No. M2007-00637-WC-R3-WC - Mailed - April 1, 2008
Filed - May 2, 2008**

This workers' compensation appeal has been referred to the Special Workers' Compensation Appeals Panel of the Supreme Court in accordance with Tennessee Code Annotated section 50-6-225(e)(3) for a hearing and a report of findings of fact and conclusions of law. This case was remanded by a prior workers' compensation appeals panel for recalculation of the award of permanent partial disability benefits. On remand, the award was modified. The employer, Bridgestone Firestone, Inc., paid the judgment, but declined to pay post-judgment interest. The trial court denied a motion to require payment of interest that was filed by the the employee, Steven Q. Manchester, and he has appealed. We reverse the trial court and hold that Mr. Manchester is entitled to post-judgment interest on the modified amount of the award from the date of the original judgment.

**Tenn. Code Ann. § 50-6-225(e) (Supp. 2007) Appeal as of Right; Judgment of the General
Sessions Court Reversed**

DONALD P. HARRIS, SR. J., delivered the opinion of the court, in which CORNELIA A. CLARK, J., and JERRY SCOTT, SR. J., joined.

Barry H. Medley, McMinnville, Tennessee for the appellant, Steven Q. Manchester.

B. Timothy Pirtle, McMinnville, Tennessee, for the appellees, Insurance Company of the State of Pennsylvania, Bridgestone Firestone Research, Inc. and Bridgestone Firestone, Inc.

MEMORANDUM OPINION

This matter was the subject of a previous appeal and panel decision, Manchester v. Bridgestone Firestone, Inc., No. M2005-01313-WC-R3-CV, 2007 WL 152221 (Tenn. Workers' Comp. Panel Jan. 19, 2007). The previous panel held that the trial court had found an impairment rating not supported by the evidence in calculating its 18% permanent partial disability award. The

case was remanded to the trial court, and, on remand, the trial court modified its previous award to 15% to the body as a whole. The order making this finding appears to have been entered on January 18, 2007. The judgment was apparently paid. On February 21, 2007, Mr. Manchester filed a motion requesting that the trial court award post-judgment interest and set the amount due. On March 7, 2007, the trial court entered an order denying Mr. Manchester's motion, stating that the court found that Mr. Manchester was not due statutory post-judgment interest. Mr. Manchester has appealed from that order.

This appeal presents a question of law only. A trial court's conclusions of law are reviewed de novo upon the record with no presumption of correctness. Perrin v. Gaylord Entm't Co., 120 S.W.3d 823, 826 (Tenn. 2003); Ganzevoort v. Russell, 949 S.W.2d 293, 296 (Tenn. 1997).

Mr. Manchester contends that the language of Tennessee Code Annotated section 50-6-225(g)(1) (Supp. 2007) makes an award of post-judgment interest mandatory. That statute states, in pertinent part: "If the judgment or decree of a court is appealed . . . , interest on the judgment or decree shall be computed from the date that the judgment or decree is entered by the trial court" (emphasis added). Bridgestone takes the position that post-judgment interest was not recoverable in this case because the first appeal nullified the trial court's previous judgment. The gist of Bridgestone's position is that interest began to accrue on the date the modified judgment was entered in the trial court rather than the date of entry of the original judgment. Bridgestone also alleges that Mr. Manchester cannot recover interest because his motion was filed more than thirty days after entry of the modified judgment.

In McClain v. Henry I. Siegel Co., 834 S.W.2d 295 (Tenn. 1992), the trial court made awards in a workers' compensation case of 50% permanent partial disability to the leg and 50% to the body as a whole. On appeal, the Supreme Court modified those awards to 40% to the leg and 30% to the body as a whole. Henry I. Siegel Co. paid the reduced amount. On remand, the trial court ordered the payment of post-judgment interest based upon the modified award, but from the date of the original judgment. The employer appealed, arguing that interest should have accrued only from the date on which the judgment was modified. The Supreme Court rejected that argument, stating:

The statute is clear that when the case is appealed to this Court interest is to be calculated "from the date that the judgment or decree is entered." The legislature obviously envisioned modifications of awards by the Supreme Court because the statute reads that interest shall accrue "on the total amount awarded by the Supreme Court." But regardless whether the judgment or decree is modified, the clear legislative mandate is that interest be computed on the judgment from the date it is originally determined that an injured employee is entitled to benefits. If the legislature had intended for post-judgment interest to begin accruing on the date of a modification by this Court, no doubt it would have indicated as much.

Id. at 296. A similar result was reached by a recent workers' compensation appeals panel in Smith v. Findlay Indus., No. M2002-01315-WC-R3-CV, 2003 WL 1018176 (Tenn. Workers' Comp. Panel March 11, 2003). These cases were based upon section 50-6-225(g).¹ Id. at *3-4.

Bridgestone contends that these cases are not applicable because the prior panel in this case found that the award of benefits was based upon an impairment rating that was not supported by evidence in the record, rather than by simply modifying the award. Because the quoted language in McCain indicates the legislature intended interest be paid from the date the employee is originally determined to be entitled to benefits, we do not consider this distinction to be significant.

Bridgestone's allegation regarding the timeliness of Mr. Manchester's motion concerning interest is also without merit. In Inman v. Inman, the Court of Appeals observed that "the right to interest on a judgment is statutory and the failure of any court to expressly provide such interest in its judgment does not abrogate the statute." 840 S.W.2d 927, 932 (Tenn Ct. App. 1992). Accordingly, Mr. Manchester's right to receive post-judgment interest was not contingent on the filing of a motion or the entry of an order by the trial court specifying such interest be paid.

The judgment of the trial court is reversed. Mr. Manchester is awarded post-judgment interest in the amount of 9.50%² percent per annum on the reduced judgment of \$34,860.00 from the date of entry of the initial judgment in this case until the reduced amount was paid. The case is remanded to the trial court for computation of that amount if the parties are unable to agree. Costs are taxed to Bridgestone Firestone Inc., for which execution may issue if necessary.

DONALD P. HARRIS, SENIOR JUDGE

¹This section of the statute was previously designated as Tennessee Code Annotated section 50-6-225(h).

²Mr. Manchester's motion was supported by affidavit indicating the prime interest rate on August 11, 2004, was 4.50%. The statute provides accrual of interest shall be calculated "at an annual rate of interest five (5) percentage points above the average prime loan rate . . . on the day the judgment or decree is entered by the trial court." Tenn. Code Ann. § 50-6-225(g)(1).

IN THE SUPREME COURT OF TENNESSEE
SPECIAL WORKERS' COMPENSATION APPEALS PANEL
JANUARY 28, 2008 SESSION

**STEPHEN Q. MANCHESTER v. INSURANCE COMPANY OF THE
STATE OF PENNSYLVANIA, ET AL**

**General Sessins Court for Warren County
No. 8367-GSWC**

No. M2007-00637-WC-R3-WC - Filed - May 2, 2008

JUDGMENT

This case is before the Court upon the entire record, including the order of referral to the Special Workers' Compensation Appeals Panel, and the Panel's Memorandum Opinion setting forth its findings of fact and conclusions of law, which are incorporated herein by reference.

Whereupon, it appeals to the Court that the Memorandum Opinion of the Panel should be accepted and approved; and

It is, therefore, ordered that the Panel's findings of fact and conclusions of law are adopted and affirmed, and the decision of the Panel is made the judgment of the Court.

Costs are taxed to Bridgestone Firestone, Inc., for which execution may issue if necessary.

IT IS SO ORDERED.

PER CURIAM